

COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

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September 13, 2011

BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

13 **SEPTEMBER 13, 2011**

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02/22/11

Agenda No. 5

TDD

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration EXECUTIVE OFFICER

500 West Temple Street Los Angeles, California 90012

> PROJECT NUMBER R2007-03194-(1) Re:

CONDITIONAL USE PERMIT NUMBER 2007-00221-(1) FIRST SUPERVISORIAL DISTRICT/THREE-VOTE MATTER

Dear Supervisors:

Your Board previously held a duly-noticed public hearing on the abovereferenced permit to authorize the continued operation of a used car sales lot located at 10550 Carmenita Road in the Sunshine Acres Zoned District. At the completion of the hearing you indicated an intent to approve the permit and instructed our office to prepare findings and conditions for approval. Enclosed are findings and conditions for your consideration.

Very truly yours,

ANDREA SHERIDAN ORDIN

County-Counsel

Principal Deputy County Counsel

Property Division

APPROVED AND RELEASED:

JOHN F. KŘATTLI

Senior Assistant County Counsel

EML:vn **Enclosures**

FINDINGS OF THE BOARD OF SUPERVISORS AND ORDER

PROJECT NUMBER R2007-03194-(1) CONDITIONAL USE PERMIT NUMBER 2007-00221-(1)

- 1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Conditional Use Permit Case No. 2007-00221-(1) ("CUP") on February 22, 2011. The CUP was heard concurrently with Zone Change Case No. 2007-00012-(1) ("Zone Change"). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP and Zone Change on October 13, 2010.
- 2. The permittee, Ziba Gregorian, requests the CUP and the related Zone Change to authorize the continued operation of a used car sales lot which has been at the same location for more than 10 years. The requested Zone Change changes the zoning for the property from C-2-BE-PR (Neighborhood Business, Billboard Exclusion/Parking Restriction) to C-3-DP-BE (Unlimited Commercial, Development Program/Billboard Exclusion).
- 3. The site is located at 10550 Carmenita Road, Whittier, in the Sunshine Acres Zoned District and consists of two tied lots ("Subject Property").
- 4. Pursuant to the conditions of the CUP, while the subject property may continue to be devoted to a use authorized under the C-3 classification (used car sales lot), the property must comply with the C-2 development standards under section 22.28.170 of the Los Angeles County Code ("County Code") rather than C-3 development standards. As discussed below, it is necessary to limit the development standards to those applicable to the C-2 classification, rather than the standards of the C-3 classification, because conforming with the height and buildable area restrictions of the C-2 classification allows the project to comply with the County's General Plan ("General Plan").
- 5. The proposed Development Program ("DP") designation requires that the property conform to the terms of the program described herein. The approved development program for the subject property not only allows the continued use of the used car sales lot, but also allows all permitted uses within the C-2 zone classification, subject to the regular C-2 development standards, as well as all permitted uses within the C-3 zone classification, subject to the C-2 development standards, except for the following five services described in section 22.28.180.A.2 of the County Code: automobile battery service, automobile brake repair, automobile muffler shops, automobile radiator shops, and automobile repair garages, which are not allowed. All uses in the C-3 zone classification which would otherwise require a conditional use permit, will still be subject to that requirement and would require a new permit.
- 6. The CUP will not become effective until the proposed Zone Change is adopted by the Board and becomes effective.

7. The surrounding properties are zoned as follows:

North:

City of Santa Fe Springs zoning;

South:

A-1 (Light agriculture) and M-1-DP (Light manufacturing,

Development program);

East:

A-1 and M-1-BE (Light manufacturing, Billboard exclusion); and

West:

City of Santa Fe Springs zoning.

8. The surrounding land uses are as follows:

North:

Commercial:

South:

Single-family residences;

East:

Single-family residences and Commercial; and

West:

Commercial.

- 9. The project site is designated as Category 1 Low Density Residential (1 to 6 dwelling units per acre) within the General Plan. The General Plan describes recommended densities for residential uses, but local, commercial, and industrial services are also acceptable. Local, commercial, and industrial uses are defined as individual enterprises or small scale, multi-use centers serving the needs of the local community. Such uses include facilities providing neighborhood or community convenience goods and services; highway or roadside facilities and services of a minor nature; local community and/or neighborhood-serving office and professional services; and light industrial uses of a minor nature as defined by the scale of the facility, number of employees, service area, and general compatibility within the community setting. Said uses must comply with General Plan goals and polices related to location, scale, design, access and traffic. As explained below, the project complies with those General Plan goals and policies.
- 10. As to location, under the General Plan, the proposed commercial uses should be: (1) easily accessible and situated at community focal points, such as major intersections and established shopping facilities; and (2) located so as not to invade or disrupt sound existing residential neighborhoods nor conflict with established community land use, parking, and circulation patterns. The 14,000-square-foot used car sales lot, which pursuant to section 22.04.110 of the County Code has been operating under a clean hands waiver since September 10, 2007, is located at the intersection of Carmenita Road and Telegraph Road, a prime location for commercial use in the local community. The property is adjacent to other commercial uses to the north, west, and east. Directly across Carmenita Road is a large shopping center within the jurisdiction of the City of Santa Fe Springs.

- As to scale, under the General Plan, acreage and permitted floor area should be limited to that which can be justified by local community and neighborhood needs, and in most instances, should not exceed 10 acres. Height of the proposed facilities should not exceed the general profile established by existing uses and should not exceed that of neighboring residential development. The overall scale and intensity should be guided by the surrounding neighborhood or community setting. Under the CUP conditions requiring conformance to C-2 development standards, the maximum height of any structure on the property site shall not exceed 35 feet, which is consistent with the maximum height allowed in neighboring residential neighborhoods. In addition, the project site is approximately one-half acre in size, which is smaller than surrounding commercial uses and will not cause any adverse impact due to intensity or scale of use.
- 12. As to General Plan design policies: (1) local commercial uses should be designed, in terms of setbacks, landscaping, lighting, and buffering to ensure compatibility with surrounding uses; (2) design should enhance overall community character; and (3) signs generally should be limited to the business' façade, freestanding signs discouraged, and off-site signs prohibited. The used car sales lot has become a part of the community's neighborhood pattern over the last 10 years. The two one-story buildings on the site are set back approximately 36 feet from the front property line, 30 feet from the southern side yard property line, 5 feet from the northern side yard property line, and 3 feet from the rear vard property line. Along the southern border of the property, there is a 30-foot buffer between the proposed use and adjacent residential uses, a buffer that will be required to remain in place by CUP conditions. Thus, residential uses to the south of the property will continue to be buffered by this 30-foot area. One freestanding pole sign exists along Carmenita Road, which was previously permitted. The subject property, including this freestanding pole sign and a wall business sign, complies with current sign requirements of Chapter 22.52 of the County Code. Any additional signage also will be required to comply with the County Code.
- 13. General Plan requirements and standards related to access and traffic with respect to local-serving commercial uses provide that: (1) the size and intensity of the use should be confined to the extent that contemplated traffic generation does not adversely affect conditions on adjacent streets and highways; and (2) access, egress, and on-site parking should provide for maximum safety and convenience, and minimize adverse impacts on surrounding neighborhoods and community land use patterns. As a continuation of an existing use, the project is not expected to negatively impact traffic. In the 10-plus years of operation, no parking problems have been reported and no expansion of operations is proposed. Moreover, the project complies with the parking requirements of section 22.52.1100 of the County Code which pertains to commercial areas in the C-3 zone, requiring one parking space for every 250 square feet of building or structure floor area. The project has a total of 2,508 square feet of building area, and therefore 10 parking spaces are required. The site plan provides for

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- 14 total parking spaces. As such, the project provides sufficient parking for the proposed use. Also, the proposed use is adequately served by sufficient roads and highways.
- 14. Zoning the property as C-3-DP-BE is more appropriate than the current zoning for a project of this size and scope because it allows for used car sales. Requiring a DP as part of the zoning is appropriate in light of the residential zone to the south because it will allow impacts on the surrounding community to be considered with any future development on the subject property.
- 15. It is necessary to maintain the Billboard Exclusion in the proposed zone because outdoor advertising could cause hazards to pedestrians and motorists, would compete with and decrease the effectiveness of on-site business signs, detract from the appearance of the area as a place to shop and work, and conflict with community goals.
- 16. Prior to the Commission's public hearing, and pursuant to the provisions of sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, and property posting.
- 17. Prior to the Commission's public hearing, an Initial Study was prepared for this project in compliance with the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines of the County. The Initial Study identified potentially significant effects of the project on noise. Prior to the release of a proposed Mitigated Negative Declaration ("MND") and Initial Study for public review, the permittee made, or agreed to, revisions in the project that would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. Based on the Initial Study and agreed-upon project revisions, an MND was prepared for this project. Conditions or changes in the proposed project that are necessary to ensure the proposed project will not have a significant effect on the environment have been included in the Mitigation Monitoring Program ("MMP") which includes considerations for impacts from noise.
- 18. A Notice of Intent to Adopt the MND was provided on September 2, 2010, and was included in the public hearing notice and newspaper advertisement of the Commission hearing.
- 19. The Commission held its duly-noticed public hearing on October 13, 2010, at which time the permittee presented testimony in favor of the request and answered questions presented by the Commission.
- 20. No other testimony was provided to the Commission, which closed the public hearing, adopted the MND and MMP for this project, approved the CUP with

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- changes agreed to by the permittee, and recommended approval of the Zone Change to the Board.
- 21. Pursuant to section 22.60.230(B)(2) of the County Code, because the project approvals included a recommendation by the Commission to the Board on the Zone Change, the CUP was automatically called up for review by the Board along with the request for the Zone Change.
- 22. On February 22, 2011, the Board conducted a duly-noticed public hearing on the CUP and Zone Change, and heard a presentation from Regional Planning staff, as well as testimony from the permittee and a member of the public. No correspondence was presented. Other than the permittee, no one testified in support of the project. The other speaker did not directly reference the project, but spoke in generalities.
- 23. After consideration of the MND and MMP together with the comments received during the public review process, the Board found on the basis of the whole record before the Board that there is no substantial evidence that the project as revised and conditioned will have a significant effect on the environment, and found that the MND reflects the independent judgment and analysis of the Board. At the conclusion of the February 22, 2011 hearing, the Board adopted the MND.
- 24. Approval of this CUP is conditioned on the permittee's compliance with the attached conditions of approval.
- 25. As a condition of approval of this grant, the permittee shall be required to comply with C-2 development standards, as specified in section 22.28.170 of the County Code, those standards being:
 - a. That not to exceed 90 percent of the net area be occupied by buildings with a minimum of 10 percent of the net area landscaped with a lawn, shrubbery, flowers, and/or trees, which shall be continuously maintained in good condition. Incidental walkways, if needed, may be developed in the landscaped area;
 - b. That there be parking facilities as required by Part 11 of Chapter 22.52 of the County Code;
 - A building or structure shall not exceed a height of 35 feet above grade, excluding signs which are permitted by Part 10 of Chapter 22.52 of the County Code, chimneys, and rooftop antennas;
 - d. With respect to outside display, other than for uses described in section 22.28.170(D) of the County Code, all displays shall be located entirely within the enclosed building unless otherwise authorized by a temporary use permit; and
 - e. No outside storage shall be permitted.

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- 26. To ensure continued compatibility between the use of the subject property authorized by this grant and surrounding land uses, it is necessary to limit the term of this grant to 20 years from the date of approval.
- 27. To ensure privacy for, and avoid adverse impacts to, residential neighbors to the south, the 30-foot buffer on the southern side of the property shall be maintained as a condition of approval of this grant.
- 28. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits Section, Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. That the proposed use with the attached conditions and restrictions will be consistent with the adopted General Plan;
- B. That with the attached conditions and restrictions, the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare;
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, loading facilities, landscaping, and other development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and adequately served by other public or private service facilities as are required.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Certifies that it considered the MND and MMP prepared for the project, together with comments received during the public review process; found that, as conditioned, there is no substantial evidence that the project will have a significant effect on the environment, and that the MND reflected the independent judgment and analysis of the Board; and adopted the MND and MMP at the close of the public hearing; and
- 2. Approves Conditional Use Permit No. 2007-00221-(1) subject to the attached conditions.

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CONDITIONS OF APPROVAL PROJECT NUMBER R2007-03194-(1) CONDITIONAL USE PERMIT NUMBER 2007-00221-(1)

- 1. This grant authorizes the use of a development program on the subject property which will allow the continued operation of a used car sales lot located at 10550 Carmenita Road, Whittier, in the Sunshine Acres Zoned District, as depicted on the approved Exhibit "A," subject to all of the following conditions of approval. The development program also will allow all permitted uses described in the C-2 zone, and all permitted uses described under the C-3 zone except for the following five services described in section 22.28.180.A.2 of the Los Angeles County Code: automobile battery service, automobile brake repair, automobile muffler shops, automobile radiator shops, and automobile repair garages. All uses on the property shall be subject to the development standards that apply in the C-2 zone, except as expressly provided herein.
- 2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
- 3. This grant shall not be effective for any purpose and cannot be used unless and until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the County Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to all of the conditions of this grant, and that the conditions have been recorded as required by Condition No. 4, and until all required monies have been paid pursuant to Condition Nos. 16 and 19. Notwithstanding the foregoing, this Condition No. 3 and Condition Nos. 2, 5, 6, 7, 13, 16, and 19 shall become immediately effective upon final approval by the County.
- 4. Prior to the use of this grant, the terms and conditions of this grant shall be recorded in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee, as applicable, of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director of Regional Planning ("Director").
- 5. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this grant approval, which action is brought within the applicable time period of section 65009 of the California Government Code, or any other applicable limitation period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to notify the permittee of any claim, action, or proceeding, and

- if the County fails to reasonably cooperate in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
- 6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing pay Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to the permittee or the permittee's counsel. The permittee shall also pay the following supplemental deposits from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents shall be paid by the permittee in accordance with section 2.170.010 of the County Code.

- 7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
- 8. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the County Regional Planning Commission or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant if it is found that these conditions have been violated, or that this grant has been exercised so as to be detrimental to the public health, safety, or so as to be a nuisance. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the permittee shall compensate the County for all costs incurred in such proceedings.
- 9. The subject property shall be developed and maintained in substantial compliance with the approved Exhibit "A." In the event that subsequent revised plans are submitted, the permittee shall submit three copies of the proposed revised plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) for such revision.
- All development shall comply with the requirements of Title 22 of the County Code (Zoning Ordinance) and the specific zoning of the subject property unless

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- specifically modified by this grant, as set forth in these conditions, including the approved or a revised Exhibit "A" approved by the Director.
- 11. All structures within the development shall comply with the requirements of the County Department of Public Works' ("Public Works") Building and Safety Division.
- 12. The permittee shall maintain the subject property in a neat and orderly fashion, and shall maintain all areas over which the permittee has control free of litter and debris.
- 13. This grant shall expire unless used within two years from the date of approval. Pursuant to section 22.56.140 of the County Code, the permittee may request a one-year extension to use this grant, provided such request is made in writing and accompanied with the applicable fee six months prior to the expiration date of this grant.
- 14. This grant shall terminate 20 years after the approval date and entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the use after this termination date, the permittee shall file a new conditional use permit application with Regional Planning at least six months prior to the expiration of the grant along with the required fee, whether or not the permittee seeks any modification of the use at that time. In the event the permittee seeks to discontinue or otherwise change the use, said change in use may require additional or different permits and be subject to then existing applicable regulations.
- 15. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any permit, law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Violation of any such permit, law, or regulation shall be a violation of these conditions, and shall constitute grounds for the issuance of a notice of violation of this grant.
- 16. Prior to the use of this grant, the permittee shall deposit the sum of \$2,000 with the County to be placed in a performance fund to be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including inspecting the permittee's adherence to development in accordance with the approved Exhibit "A" on file at Regional Planning. This fund provides for 10 biennial (once every two years) inspections. Inspections shall be unannounced.
- 17. If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional inspections

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and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200 per inspection, or the current recovery cost at the time of payment, whichever is greater.

- 18. Except for seasonal decorations or signage provided by or for a civic or non-profit organization, all structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage that do not directly relate to the use of the property or provide pertinent information about the premises. In the event any such extraneous markings become visible, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of their visibility, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
- 19. Within three days following the date of final approval of this grant, the permittee shall remit processing fees payable to the County in connection with the filing and posting of a Notice of Determination (NOD) for this project and its entitlements in compliance with section 21152 of the Public Resources Code. The permittee shall pay the fees in effect at the time of the filing of the NOD, as provided for in section 711.4 of the Fish and Game Code currently \$2,085.25 (\$2,010.25 for a Negative Declaration or Mitigated Negative Declaration plus \$75.00 processing fee). No land use project subject to this requirement is final, vested, or operative until the fee is paid.
- 20. The permittee shall comply with all mitigation measures identified in the Mitigation Monitoring Program, which is attached hereto and incorporated herein.
- 21. Upon approval of this grant, the permittee shall contact the County Fire Department to determine the requirements that must be satisfied for fire protection purposes related to the permittee's use. All such requirements shall be satisfied to the satisfaction of and within the timeframe set by said department.
- 22. Approval of this grant shall be contingent upon, and shall not become effective until Zone Change Case No. 2007-00012-(1) is approved by the Board and becomes effective.
- 23. C-2 Development Standards, as specified in section 22.28.170 of the County Code shall apply to this project, among them being:
 - a. Buildings shall not exceed 90 percent of the net area of the site.
 - b. A minimum of 10 percent of the net area shall be landscaped with a lawn, shrubbery, flowers, and/or trees, which shall be continuously maintained in good condition. Incidental walkways, if needed, may be developed in the landscaped area.

- c. There shall be parking facilities as required by Part 11 of Chapter 22.52 of the County Code, including a minimum of 10 automobile parking spaces on site at all times, one of which shall be handicap accessible.
- d. A building or structure on the site shall not exceed a height of 35 feet above grade, excluding signs which are permitted by Part 10 of Chapter 22.52 of the County Code, chimneys, and rooftop antennas.
- e. Other than for uses described in 22.28.170(D) of the County Code, all display shall be located entirely within an enclosed building unless otherwise authorized by a temporary use permit.
- f. No outside storage shall be permitted.
- 24. No building or structure of any kind except a temporary structure shall be built, erected, or moved onto any part of the property.
- 25. No existing building or structure, which under the Development Program, is to be demolished, shall be used.
- 26. If an existing building or structure is to be altered, it shall not be used until the alteration of such building or structure has been completed.
- 27. All improvements shall be completed prior to the occupancy of any structures.
- 28. All external lighting shall be directed away from residential properties and shielded from adjacent residences. All lighting shall be turned off by 10:00 p.m., except for security lighting.
- 29. The property shall maintain a 30-foot buffer strip along the southern property boundary.

Attachment:

Mitigation Monitoring Program (one page)

PROJECT NO. RENV 201000005 / RCUP 200700221 IGATION MONITORING PROGRAM

be no substantial evidence the proposed project will have a significant effect on the environment. The Department of Regional Planning staff has determined the following conditions or changes in the project are necessary in order to ensure there will

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# Mitigation	Action Required	When Monitoring to Occur	Responsible Agency or Party	Monitoring Agency or Purty
Utilities-Water/Sewer				
Public Work's Consolidated Sewer Maintenance District is responsible for the maintenance and	Any sewer construction project within the project area	Prior to issuance of grading or building permits,	permittee	Public Works
operation of the local sewer within the project area. Should there be a need for a sewer project.	comply with the Public Works' sewer standards.	whichever occurs first.		
Noise				
Provide noise buffer between commercial use and residential.	Maintain 30 foot buffer between residential and	Buffer already in place	permittee	Regional Planning
Compliance				
Compliance with above mitigation measures, shall be included in the Conditional Use Permit Conditions			permittee	Regional Planning
and no further monitoring is required.				

Hearing Officer and/or Regional Planning Commission will be on the project as changed/conditioned As the applicant, I agree to incorporate these changes/conditions into the project and understand that the public hearing and consideration by the Applicable Date

response within 10 days. Environmental determination requires that these changes/conditions be included in the project.

Date

Staff